

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 11 2003

CATHY A. CATTERSON

U.S. COURT OF APPEALS

JUDITH REINSDORF,

No. 02-55281

Plaintiff - Appellant,

D.C. No. CV-01-01770-MMM

v.

MEMORANDUM*

JERRY REINSDORF,

Defendant - Appellee.

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Argued and Submitted March 3, 2003
Pasadena, California

Before: T.G. NELSON, SILVERMAN, and McKEOWN, Circuit Judges.

Judith Reinsdorf appeals the district court's grant of summary judgment in favor of her brother, Jerry Reinsdorf. We have jurisdiction pursuant to 28 U.S.C.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

§ 1291, and we affirm. Because the parties are familiar with the facts, we will not recite them here.

The district court properly found that Judith's declaration was a sham.¹ Her deposition testimony was clear, and it contradicted the statements she made in her declaration. Absent the declaration, nothing in the record creates a genuine issue of material fact precluding summary judgment.² Accordingly, we affirm.

AFFIRMED.

¹ The court's finding was one of fact, which we review for clear error. *See Kennedy v. Allied Mut. Ins. Co.*, 952 F.2d 262, 267 (9th Cir. 1991); *United States v. Doe*, 155 F.3d 1070, 1074 (9th Cir. 1998) (en banc).

² *See Oliver v. Keller*, 289 F.3d 623, 626 (9th Cir. 2002).